

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.

ORDER

Shiv Narain alias Versus State of Rajasthan.
Sujan Singh.

S.B. Criminal Misc. Petition No. 1086/2003
against the order dated 18-1-2003 passed
by the Sessions Judge, Jaisalmer, in Criminal
Revision No. 06/2002.

...

Date of Order: December 12, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. J.R. Beniwal, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 18-1-2003 passed by the Sessions Judge, Jaisalmer (for short, "the Revisional Court" hereinafter), whereby the revision petition filed by the petitioner against the order dated 4-10-2001 passed by the Chief Judicial Magistrate, Jaisalmer (for short, "the trial Court" hereinafter) framing the charge against the petitioner, was dismissed on the ground that the order is interlocutory.

I have heard learned counsel for the parties. Perused the orders passed by both the Courts below.

On careful perusal of the order impugned, it appears that the order framing the charge passed by the trial Court was challenged by the petitioner before the Revisional Court. Earlier co-accused Prem Narain also challenged the order dated 4.10.2001 framing the charge by filing a criminal revision petition before the Revisional Court and the revision petition filed by co-accused Prem Narain was dismissed. The revision petitions filed by the present petitioner before the Revisional Court and co-accused Prem Narain are independent of each other and while deciding the case of co-accused Prem Narain, the case of the present petitioner had not been examined.

I have carefully gone through the orders passed by the Revisional Court in the revision petitions filed by the present petitioner and co-accused Prem Narain. The case of the petitioner has not been considered and decided on the revision petition filed by co-accused Prem Narain. It cannot be said that the order framing the charge is interlocutory order. It is settled proposition of law that the order framing charge is revisable under Section 397/401 of the Code.

The criminal miscellaneous petition is, therefore, allowed. The order impugned dated 18-1-2003 passed by the Revisional Court is set aside and the matter is remanded to the

Revisional Court to decide the revision petition filed by the petitioner afresh on merit after affording an opportunity of hearing to the petitioner.

(H.R. PANWAR), J.

mcs